

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:04-cv-00148-GMS**

Inacom Corp. v. Tech Data Corp.

Assigned to: Honorable Gregory M. Sleet

Demand: \$0

Case in other court: USBK/DE, 00-02426PJW

USBK/DE, ADV02-3496

Cause: 28:0157 Motion for Withdrawal of Reference

Date Filed: 03/09/2004

Jury Demand: None

Nature of Suit: 423 Bankruptcy

Withdrawal

Jurisdiction: Federal Question

Debtor

Inacom Corp. et al

Plaintiff

Inacom Corp.

represented by **Kathleen Marshall DePhillips**
Pachulski, Stang, Ziehl, Young &
Jones, P.C.
919 North Market Street, Suite 1600
P.O. Box 8705
Wilmington, DE 19899-8705
(302) 652-4100
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Tech Data Corporation

represented by **James F. Harker**
Herlihy, Harker & Kavanaugh
1400 North Market Street, Suite 200
P.O. Box 1597
Wilmington, DE 19899
(302) 654-3111
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ThirdParty Defendant

Compaq Computer Corporation

represented by **Derek C. Abbott**
Morris, Nichols, Arsht & Tunnell
1201 North Market Street
P.O. Box 1347
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LEAD ATTORNEY
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Sean T. O'Kelly
 Cross & Simon, L.L.C.
 913 Market Street
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 Email: sokelly@crosslaw.com
 TERMINATED: 02/11/2005
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----|--|
| 03/09/2004 | 1 | MOTION by Tech Data Corp. to Withdraw the Reference (mwm) (Entered: 03/10/2004) |
| 03/09/2004 | 2 | DESIGNATED RECORD of withdrawal record (mwm) (Entered: 03/10/2004) |
| 03/09/2004 | 3 | NOTICE of Docketing Bankruptcy withdrawal record (mwm) (Entered: 03/10/2004) |
| 03/17/2004 | 4 | CASE assigned to Judge Gregory M. Sleet . Notice to all parties. (rjb) (Entered: 03/17/2004) |
| 07/09/2004 | 5 | REQUEST by Inacom Corp. for Status Conf (lg) (Entered: 07/12/2004) |
| 07/12/2004 | 6 | NOTICE of Scheduling for status/scheduling telephone conference on 9/9/04 at 2:00 p.m. (lg) (Entered: 07/13/2004) |
| 08/12/2004 | 7 | MOTION by Inacom Corp. et al, Inacom Corp. with Proposed Order for Andrew W. Caine, Esq. and Jeffrey P. Nolan, Esq. to Appear Pro Hac Vice (asw) (Entered: 08/13/2004) |
| 08/18/2004 | | So Ordered granting [7-1] motion for Andrew W. Caine, Esq. and Jeffrey P. Nolan, Esq. to Appear Pro Hac Vice (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 08/26/2004) |
| 09/07/2004 | 8 | NOTICE of Status Report by InaCom Corp. with respect to certain advisory proceedings scheduled for status/scheduling telephone conference on September 9, 2004, at 2:00 P.M. (mmm) (Entered: 09/08/2004) |
| 09/08/2004 | 9 | MOTION with Proposed Order for Ellen A. Friedman and Derrick N.D. Hansen to Appear Pro Hac Vice filed by Compaq Computer Corp, third-party defendant (asw) (Entered: 09/10/2004) |
| 09/09/2004 | 10 | JOINT STATEMENT OF CERTAIN COORDINATING DEFENDANTS REGARDING STATUS OF ACTIONS AND PROPOSED PRETRIAL SCHEDULED filed (asw) (Entered: 09/13/2004) |
| 09/09/2004 | 11 | MOTION by Compaq Computer with Proposed Order for Cecily A. |

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| | | Dumas, Esq. to Appear Pro Hac Vice (asw) (Entered: 09/13/2004) |
| 09/13/2004 | | So Ordered granting [9-1] motion for Ellen A. Friedman and Derrick N D. Hansen to Appear Pro Hac Vice (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 09/13/2004) |
| 09/14/2004 | | So Ordered granting [11-1] motion for Cecily A. Dumas, Esq. to Appear Pro Hac Vice (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 09/14/2004) |
| 09/20/2004 | 12 | NOTICE of scheduling of status telephone conference on 9/27/04 at 10:00 a.m. as to Inacom Corp. et al, Inacom Corp., Tech Data Corp., Compaq Computer (mmm) (Entered: 09/21/2004) |
| 09/20/2004 | 13 | STATUS REPORT by Inacom Corp. (asw) (Entered: 09/23/2004) |
| 09/27/2004 | | Scheduling Teleconference held; Judge Sleet presiding; Crt. Rptr., K. Maurer, Fact Discovery Cutoff - 1/28/05; Case Dispositive Motions - 2/11/05; Expert Discover - 2/28/05; Rebuttal - 3/18/05; Expert Rpts. - 4/8/05; 5-day non-jury trial - 10/17/05 at 9:00 a.m.; Pretrial Conference 9/19/05 at 10:00 a.m.; Pretrial Order due 8/15/05; Counsel will prepare the proposed scheduling order and submit to the court by 10/4/04 (asw) (Entered: 09/27/2004) |
| 09/27/2004 | | Deadline updated; set Scheduling Order Deadlines: Discovery deadline on 1/28/05 Deadline for filing dispositive motions by 2/11/05 Pretrial conference by 10:00 9/19/05 Trial Date Deadline 9:00 10/17/05 Proposed Pretrial Order due on or before 8/15/05 (asw) (Entered: 09/27/2004) |
| 09/28/2004 | 14 | Proposed Scheduling Order filed by the parties (asw) (Entered: 10/01/2004) |
| 10/04/2004 | | So Ordered granting [14-1] proposed order (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 10/04/2004) |
| 10/04/2004 | | Deadline updated; reset Scheduling Order Deadlines: joining of parties, amended pleadings on <date not set> Discovery deadline on 1/28/05 Deadline for filing dispositive motions by 2/11/05 Pretrial conference by 10:00 9/19/05 5-day non-jury Trial Date Deadline 9:00 a.m. on 10/17/05 Proposed Pretrial Order due on or before 8/15/05 (asw) (Entered: 10/04/2004) |
| 11/08/2004 | 15 | NOTICE OF SERVICE re: Hewlett-Packard Company's First Request for Production of Documents to Inacom Corp, Hewlett-Packard Company's First Set of Interrogatories to Tech Data Corporation and Hewlett-Packard Company's First Request for Production of Documents to Tech Data Corporation (asw) (Entered: 11/09/2004) |
| 01/04/2005 | 16 | PREFERENCE DEFENDANTS' JOINT MOTION with Proposed Order To Modify the Scheduling Order Answer Brief due 1/18/05 re: [16-1] motion (asw) (Entered: 01/05/2005) |
| 01/04/2005 | 17 | Proposed Amended Scheduling Order filed by the "Preference Defendants, collectively; RE: Discovery, expert rpts, and case dispositive |

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| | | Motions (asw) (Entered: 02/03/2005) |
| 01/13/2005 | 18 | Agreed Proposed Amended Scheduling Order filed by the parties (asw) (Entered: 02/09/2005) |
| 02/08/2005 | 19 | STATUS REPORT by Inacom Corp et al, Inacom Corp., Tech Data Corp., Compaq Computer. (mmm) (Entered: 02/09/2005) |
| 02/10/2005 | 20 | Letter to Judge Sleet from R. Karl Hill, Esq. requesting that the Court enter the attached Stipulation and Agreed Protective Order at its earliest convenience (asw) (Entered: 02/11/2005) |
| 02/10/2005 | 21 | STIPULATION and Agreed Protective Order with proposed order filed by the parties (asw) (Entered: 02/11/2005) |
| 02/11/2005 | 22 | NOTICE of Withdrawal of Sean T. O'Kelly as counsel to Compaq Computer. (mmm) (Entered: 02/11/2005) |
| 02/11/2005 | | SO ORDERED, re [18] Proposed Order, ORDER, Reetting Scheduling Order Deadlines Discovery due by 3/31/2005; Court eliminated Case Dispositive Motions practice.. Signed by Judge Gregory M. Sleet on 2/11/05. (asw,) (Entered: 02/17/2005) |
| 02/15/2005 | 23 | STENO NOTES of Telephone Conference held on 2/11/05 before Judge Gregory M. Sleet. Court Reporter: Kevin Maurer. (Notes on file in Clerk's Office) (mmm,) (Entered: 02/15/2005) |
| 02/23/2005 | 24 | Letter to Judge Sleet from Patricia P. McGonigle submitting proposed Stipulation and Agreed Protective Order with ORIGINAL signatures of counsel [previously docketed - D.I. 21]. (asw) (Entered: 02/25/2005) |
| 02/28/2005 | 25 | MOTION for Pro Hac Vice Appearance of Attorney Gail S. Greenwood - filed by Compaq Computer Corporation. (dab,) (Entered: 02/28/2005) |
| 02/28/2005 | 26 | MOTION for Pro Hac Vice Appearance of Attorney Brandon C. Chaves - filed by Compaq Computer Corporation. (dab,) (Entered: 02/28/2005) |
| 03/09/2005 | 27 | NOTICE OF SERVICE of Plaintiff's First Set of Document Production Requests by Inacom Corp.. (Attachments: # 1 Exhibit A# 2 Affidavit of Service with Service List)(McLamb, Sandra) (Entered: 03/09/2005) |
| 03/09/2005 | 28 | NOTICE OF SERVICE of Plaintiff's Second Set of Document Production Requests by Inacom Corp.. (Attachments: # 1 Exhibit A# 2 Affidavit of Service with Service List)(McLamb, Sandra) (Entered: 03/09/2005) |

| PACER Service Center | | | |
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| Transaction Receipt | | | |
| 03/15/2005 09:53:45 | | | |
| PACER Login: | az0004 | Client Code: | 210346.0002 |

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| Description: | Docket | Search | 1:04-cv-00148-GMS Start date: |
| | Report | Criteria: | 1/1/1970 End date: 3/15/2005 |
| Billable | | | |
| Pages: | 5 | Cost: | 0.24 |

CLOSED

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:04-cv-00579-GMS**

Inacom Corporation v. Tech Data Corp.
Assigned to: Honorable Gregory M. Steet
Demand: \$0
Case in other court: USBK, 1:00-BK-02426
USBK, 1:02-AV-03496
Cause: 28:0157 Motion for Withdrawal of Reference

Date Filed: 06/25/2004
Jury Demand: None
Nature of Suit: 423 Bankruptcy
Withdrawal
Jurisdiction: Federal Question

Debtor**Inacom Corporation****Plaintiff****Inacom Corporation**

represented by **Laura Davis Jones**
Pachulski, Stang, Ziehl, Young &
Jones, P.C.
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P.O. Box 8705
Wilmington, DE 19899-8705
(302) 652-4100
Email: ljones@pszyjw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Tech Data Corporation**

represented by **James F. Harker**
Herlihy, Harker & Kavanaugh
1400 North Market Street, Suite 200
P.O. Box 1597
Wilmington, DE 19899
(302) 654-3111
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|---|---|
| 06/25/2004 | | Items listed on Bankruptcy Docket for the Adversary Proceeding are electronically filed in the Bankruptcy Court (maw) (Entered: 06/28/2004) |
| 06/25/2004 | 2 | Copy of Bankruptcy Docket and Complaint for Adversary Proceeding (maw) (Entered: 06/28/2004) |

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| 06/25/2004 | | 1 | Copy of ORDER dated 6/24/04 that reference or adversary proceeding is withdrawn and assigned to the Honorable Gregory M. Sleet (signed by Judge Gregory M. Sleet) (maw) (Entered: 06/28/2004) |
| 06/25/2004 | | | Adversary Cause of Action: Avoidance & Recovery of Pref. Transfers (maw) (Entered: 06/28/2004) |
| 06/25/2004 | | | Case opened in error. Adversary #02-AV-3496 was previously withdrawn as CA 04-148 GMS (maw) (Entered: 06/28/2004) |
| 06/25/2004 | | | Case closed - not reported to SARD (maw) (Entered: 06/28/2004) |
| 07/14/2004 | | 4 | NOTICE OF SERVICE by Tech Data Corp. re: Defendant Tech Data Corp.'s First Set of Interrogatories, Requests for Production of Documents and Other things (asw) (Entered: 07/15/2004) |
| 07/14/2004 | | 5 | MOTION with Proposed Order for Stephen C. Hunt, Esq to Appear Pro Hac Vice filed by James F. Harker (asw) (Entered: 07/15/2004) |
| 07/14/2004 | | 6 | MOTION by Tech Data Corp. with Proposed Order for Charles M. Tatelbaum, Esq. to Appear Pro Hac Vice (asw) (Entered: 07/15/2004) |
| 07/16/2004 | | | So Ordered granting [6-1] motion for Charles M. Tatelbaum, Esq. to Appear Pro Hac Vice (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 07/16/2004) |
| 07/16/2004 | | | So Ordered granting [5-1] motion for Stephen C. Hunt, Esq to Appear Pro Hac Vice (signed by Judge Gregory M. Sleet) Notice to all parties. (asw) (Entered: 07/16/2004) |
| 02/03/2005 | | 7 | NOTICE OF SERVICE by Tech Data Corp. re: Second Request for Production of Documents to Tech Data Corporation (asw) (Entered: 02/08/2005) |

| PACER Service Center | | | |
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| Transaction Receipt | | | |
| 03/15/2005 09:51:45 | | | |
| PACER Login: | az0004 | Client Code: | 210346.0002 |
| Description: | Docket Report | Search Criteria: | 1:04-cv-00579-GMS Start date: 1/1/1970 End date: 3/15/2005 |
| Billable Pages: | 1 | Cost: | 0.08 |

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

INACOM CORPORATION, on behalf
of all affiliated debtors,

Case Nos.: 04-cv-00148 (GMS)
04-cv-00579 (GMS)

Plaintiff,

vs.

TECH DATA CORPORATION,

Defendant.

TECH DATA CORPORATION,

Third-Party Plaintiff,

vs.

COMPAQ COMPUTER CORP.
and CUSTOM EDGE, INC.,

Third-Party Defendants.

MOTION TO CONSOLIDATE RELATED CIVIL ACTIONS

TECH DATA CORPORATION, the defendant and third party plaintiff herein ("Tech Data"), as and for its Motion to Consolidate Related Civil Actions, respectfully states as follows:

On March 9, 2004 the Clerk of Court created the captioned matter as a civil case bearing case number 04-00148 (GMS) in relation to the docketing of the withdrawal record for Tech Data's motion to withdraw the reference from the United States Bankruptcy Court. A true and correct copy of the docket report for this case number 04-00148 (GMS), dated March 15, 2005, is annexed hereto and made a part hereof as Exhibit "A."

Thereafter, on June 25, 2004, the Clerk of Court created a second civil case bearing case number 04-00579 (GMS). A true and correct copy of the docket report for this case number 04-00579 (GMS), dated March 15, 2005, is annexed hereto and made a part hereof as Exhibit "B."

Because there were separate two civil cases for the same cause of action open, certain pleadings were filed in either 04-00148 or 04-00579 such that neither action contains a complete record of all docket activity. And while the Clerk of Court made a notation on the docket that the matter bearing case number 04-00579 had been opened in error and would be closed, pleadings have continued to be accepted for filing in that errant action. Most recently, a Notice of Service of certain discovery requests was made by the third party defendant to Tech Data.¹

Tech Data therefore respectfully requests that the Court enter an Order consolidating case numbers 04-00148 and 04-00579. Granting the instant Motion would ensure that the procedural and substantive rights of all parties are maintained by "merging" the two disparate dockets into one court record, and would also avoid unnecessary judicial labor such as would be attendant with the re-filing of pleadings and motions from 04-00579 in 04-00148.

Tech Data respectfully submits that no novel issue of fact or law is presented by this action, which seeks ministerial relief. As such, Tech Data does not believe that either the plaintiff or the third party plaintiff will oppose the relief sought herein. Accordingly, Tech Data respectfully requests that the Court dispense with the requirements of Rule 7.1.2 of the Local Rules of Civil Practice and Procedure of this Court (the "Local Rules") as to the filing of a separate Memorandum of Law.

A proposed form of Order granting this Motion is being submitted contemporaneously herewith.

¹ The docket for 04-00579 (GMS) incorrectly refers to this filing event, court paper number 7, as having been made by Tech Data.

WHEREFORE, Tech Data Corporation respectfully requests that this Court enter an Order granting the within Motion and consolidating the dockets for case numbers 04-00148 (GMS) and 04-00579 (GMS). To the extent that the Court determines that this Motion should be referred to the Clerk of Court for disposition consistent with Rule 77(c) of the Federal Rules of Civil Procedure and Local Rule 77.2(a)(5), Tech Data respectfully requests that the Clerk of Court enter an Order granting the relief requested in the Motion.

Dated: March ___, 2005.

Respectfully submitted,

HERLIHY, HARKER & KAVANAUGH

By: _____

James F. Harker (Bar No. 255)
Local Counsel for Defendant
1300 North Market Street, Suite 400
Wilmington, Delaware 19899
Telephone: (302) 654-3111

and

ADORNO & YOSS, LLP
Charles M. Tatelbaum
Florida Bar No.: 177540
Stephen C. Hunt
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350 E. Las Olas Boulevard, Suite 1700
Fort Lauderdale, FL 33301
Telephone: (954) 763-1200
Facsimile: (954) 766-7800

Attorneys for Defendant and Third Party Plaintiff,
Tech Data Corporation

IN THE UNITED STATES BANKRUPTCY COURT,
FOR THE DISTRICT OF DELAWARE

INACOM CORPORATION, on behalf
of all affiliated debtors,

Case Nos.: 04-cv-00148 (GMS)
04-cv-00579 (GMS)

Plaintiff,

vs.

TECH DATA CORPORATION,

Defendant.

TECH DATA CORPORATION,

Third-Party Plaintiff,

vs.

COMPAQ COMPUTER CORP.
and CUSTOM EDGE, INC.,

Third-Party Defendants.

ORDER GRANTING MOTION TO CONSOLIDATE RELATED CIVIL ACTIONS

THIS MATTER, having been presented to the Court by way of defendant and third party plaintiff Tech Data Corporation's Motion to Consolidate Related Civil Actions, and it appearing that good and sufficient cause exists to warrant entry of the within Order, and it further appearing that adequate notice has been provided to all parties of record, it is

ORDERED, that the Motion is granted and it is further

ORDERED, that the Clerk of Court shall forthwith consolidate the dockets of the related civil actions captioned above.

Date: March __, 2005

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on March __, 2005 I caused a true and accurate copy of the foregoing Motion and a proposed form of Order to be served upon the following parties in the manner indicated:

| | |
|---|--|
| <u>By Hand Delivery</u> William H. Sudell, Jr. Derek C. Abbott Morris, Nichols, Arsht & Tunnell 1201 N. Market Street Wilmington, DE 19899-1347 <i>Attorneys for Third Party Defendant</i> | <u>By Hand Delivery</u> Laura Davis Jones Sandra McLamb Kathleen Marshall DePhillips Pachulski, Stang, Ziehl, Young & Jones, PC 919 North Market Street, Suite 1600 Wilmington DE 19899 <i>Attorney for Plaintiff</i> |
| <u>By First Class Mail</u> Cecily A. Dumas Ellen A. Friedman Brandon Chaves Friedman Dumas & Springwater LLP One Maritime Plaza, Suite 2475 San Francisco, CA 94111 <i>Attorneys for Third Party Defendant</i> | <u>By First Class Mail</u> Andrew W. Caine Jeffrey P. Nolan Pachulski, Stang, Ziehl, Young & Jones, PC 10100 Santa Monica Blvd., 11 th Floor Los Angeles, CA 90067 <i>Attorneys for Plaintiff</i> |

Dated: March __, 2005.

James F. Harker (No. 255)